

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

MARSHALL BURGESS, Jr.

Plaintiff,

vs.

BRIAN E. SANDAVAL, *et al.*,

Defendants.

3:12-cv-0085-LRH-WGC

**ORDER**

Plaintiff, who is in the custody of the Nevada Department of Corrections, has submitted an amended civil rights complaint pursuant to 42 U.S.C. § 1983 (# 13) and an application to proceed in forma pauperis (ECF No. 6). Based on the financial information provided, the court finds that plaintiff is unable to prepay the full filing fee in this matter. Therefore,

**IT IS ORDERED** as follows:

1. Plaintiff's application to proceed *in forma pauperis* (# 6) is **GRANTED**; petitioner has already paid the initial partial filing fee toward the full filing fee of three hundred fifty dollars (\$350.00). However, even if this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).
2. The plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor. This order granting leave to proceed *in forma pauperis* shall not extend to the issuance of subpoenas at government expense.

- 1           3.       Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections shall pay  
2           to the Clerk of the United States District Court, District of Nevada, 20% of the  
3           preceding month's deposits to plaintiff's account (inmate # 27775), in the months that  
4           the account exceeds \$10.00, until the full \$350.00 filing fee has been paid for this  
5           action. The Clerk of the Court shall **SEND** a copy of this order to the Finance  
6           Division of the Clerk's Office. The Clerk shall also **SEND** a copy of this order to the  
7           attention of the Chief of Inmate Services for the Nevada Department of Corrections,  
8           P.O. Box 7011, Carson City, NV 89702.
- 9           4.       The Clerk shall electronically **SERVE** a copy of this order and a copy of plaintiff's  
10          complaint on the Office of the Attorney General of the State of Nevada, attention  
11          Pamela Sharp.
- 12          5.       The Attorney General's Office shall advise the Court within **twenty-one (21) days** of  
13          the date of the entry of this order whether it can accept service of process for the  
14          named defendants. As to any of the named defendants for which the Attorney  
15          General's Office cannot accept service, the Office shall file, *under seal*, the last  
16          known address(es) of those defendant(s).
- 17          6.       If service cannot be accepted for any of the named defendant(s), plaintiff shall file a  
18          motion identifying the unserved defendant(s), requesting issuance of a summons, and  
19          specifying a full name and address for said defendant(s).
- 20          7.       If the Attorney General accepts service of process for any named defendant(s), such  
21          defendant(s) shall file and serve an answer or other response to the complaint within  
22          **sixty (60) days** from the date of this order.
- 23          8.       Henceforth, plaintiff shall serve upon defendant(s) or, if an appearance has been  
24          entered by counsel, upon their attorney(s), a copy of every pleading, motion or other  
25          document submitted for consideration by the Court. Plaintiff shall include with the  
26          original paper submitted for filing a certificate stating the date that a true and correct

1 copy of the document was mailed to the defendants or counsel for the defendants. If  
2 counsel has entered a notice of appearance, the plaintiff shall direct service to the  
3 individual attorney named in the notice of appearance, at the address stated therein.  
4 The Court may disregard any paper received by a district judge or magistrate judge  
5 which has not been filed with the Clerk, and any paper received by a district judge,  
6 magistrate judge, or the Clerk which fails to include a certificate showing proper  
7 service.

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9 **IT IS SO ORDERED.**

10 DATED: August 22, 2012.

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14 UNITED STATES MAGISTRATE JUDGE  
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